

**OFFICE OF THE MISSISSIPPI SECRETARY OF STATE
SECURITIES DIVISION**

IN THE MATTER OF:

LPL FINANCIAL LLC

**ADMINISTRATIVE CONSENT
ORDER LS-17-2288**

Respondent

ADMINISTRATIVE CONSENT ORDER

WHEREAS, the Securities Division of the Mississippi Secretary of State (“Division”), has the authority to administer and provide for the enforcement of all provisions of the Mississippi Securities Act (“Act”) codified at Mississippi Code Annotated Sections 75-71-101, *et. seq.*;

WHEREAS, the Division investigated activities of Respondent LPL Financial LLC (“LPL”);

WHEREAS, Respondent has cooperated with the Division’s investigation by responding to inquiries and providing the Division with access to facts relating to the investigation;

WHEREAS, Respondent has advised the Division of its agreement to resolve the matter without the expense and delay that formal proceedings would involve;

WHEREAS, Respondent elects to permanently waive any right to a hearing and appeal under the Act in Sections 75-71-604 and 75-71-609; and

WHEREAS, Respondent admits the jurisdictional allegations and agrees to take certain actions described herein and consents to the terms and conditions of this Administrative Consent Order (“Order”). Neither this Order nor any acts performed nor documents executed in furtherance of this Order are intended for use by any person or entity not a party to this

proceeding as an admission of, or evidence of, any fault or omission of Respondent in any civil, criminal, or administrative proceeding in any court, administrative agency, or other tribunal. This Order is not intended to confer any rights upon any person or entities who are not a party to this proceeding;

NOW, THEREFORE, the Division, as Administrator of the Act, hereby enters this Order:

I. FINDINGS OF FACT

PARTIES

1. The Secretary of State has the authority pursuant to the Act to administer and enforce the Act and regulate the offer and sale of securities in Mississippi including the firms and persons who offer or sell securities or who provide investment advice regarding securities.
2. Respondent, CRD # 6413, is registered with the Division as a broker-dealer with a home office address of 75 State Street, 22nd Floor, Boston, Massachusetts, 02109.

LPL'S CUSTOMER ACCOUNT STATEMENTS

3. LPL provides monthly account statements to its customers which include, among other information, a breakdown of their investment holdings at LPL.
4. This information is provided on the second page of each account statement in the form of a Portfolio Investment Summary ("Investment Summary"). The Investment Summary breaks down the client's portfolio by listing the investment type, the dollar amount of each investment type, and the percentage of each investment type in relation to the client's overall holdings.

5. LPL outsources certain tasks relating to the production of customer account statements to third party vendors, Thompson Reuters and Broadridge. The Wealth Management Division of Thompson Reuters Beta offers a suite of products referred to as “Beta” and Broadridge is a service provider that produces account statements based on a template that has been approved by its client – in this case, LPL. Broadridge generates LPL’s customer account statements with data it receives from LPL and Beta.

INCONSISTENT CLASSIFICATION OF CERTAIN SECURITIES

6. The Division conducted an investigation into LPL’s classification of certain securities on its customer account statements.

7. During its investigation, the Division identified certain non-traded real estate investment trusts (“non-traded REITs”) and non-traded business development companies (“non-traded BDCs”) that were classified as equities. Client statements dating back to January 2012 reflected an inconsistent classification of these products.

LPL’S REMEDIATION

8. Since at least 2012, LPL was aware that information provided by Beta was causing certain non-traded REITs and non-traded BDC’s to be categorized as equities rather than alternative investments on client statements. In November 2015, LPL identified a coding function in Beta that enabled LPL to amend the classification on non-traded REITs and non-traded BDCs on client account statements to consistently group the products within the alternative investment category. The changes were reflected on account statements beginning in April 2016.

9. LPL has instituted an Operational Review with an outside and independent consultant; the Operational Review will include reviews of the onboarding of new securities products and of the vendor service protocols to ensure processes are in place for identification and management of critical services used to ensure compliance with state securities laws.

II. APPLICABLE LAW

10. Miss. Code Section 75-71-102(1) states, “‘Administrator’ means the Secretary of State.”

11. Section 75-71-601(a) of the Act states, “The administrator shall administer this chapter.”

12. Miss. Code Section 75-71-411(c)(1) states,

(c) **Recordkeeping.** Subject to Section 15(h) of the Securities Exchange Act of 1934 (15 USC Section 78o(h)) or Section 222 of the Investment Advisers Act of 1940 (15 USC Section 80b-22):

- (1) A broker-dealer registered or required to be registered under this chapter and an investment adviser registered or required to be registered under this chapter shall make and maintain the accounts, correspondence, memoranda, papers, books, and other records required by rule adopted or order issued under this chapter;

13. Mississippi Securities Act Rule 5.15 states:

Rule 5.15 Record Keeping Requirements of Broker-Dealers.

Unless otherwise provided by order of the SEC, each broker-dealer registered or required to be registered under this Act shall make, maintain, and preserve books and records in compliance with SEC Rules 17a-3 (17 C.F.R. § 240.17a-3 (1996)), 17a-4 (17 C.F.R. § 240.17a-4 (1996)), 15c2-6 (17 C.F.R. § 240.15c2-6 (1996)), and 15c2-11 (17 C.F.R. § 240.15c2-11 (1996)).

14. Miss. Code Section 75-71-412(c) states,

Disciplinary penalties—registrants. If the administrator finds that the order is in the public interest and subsection (d)(1) through (6), (8), (9), (10), (12) or (13) authorizes the action, an order under this chapter may censure, impose a bar, or impose a civil penalty in an amount not to exceed a maximum of the amount specified in Section 75-71-613 for each violation on a registrant, and, if the registrant is a broker-dealer or investment adviser, a partner, officer, director, or person having a similar status or performing similar functions, or a person directly or indirectly in control of the broker-dealer or investment adviser.

III. CONCLUSIONS OF LAW

15. LPL's inconsistent classification of securities on customer account statements was a failure to comply with the Act's books and records requirements as set forth in Miss. Code Ann. § 75-71-411(c)(1) and Mississippi Securities Act Rules 5.15.

16. LPL's failure to comply with Miss. Code Ann. § 75-71-411(c)(1) and the promulgated rules provides the basis for discipline of LPL pursuant to Miss. Code Ann. §§ 75-71-412(c).

IV. ACTION NECESSARY TO PROTECT THE PUBLIC

17. Action by the Division is necessary and appropriate in the public interest and for the protection of investors, and is consistent with the purposes fairly intended by the policy and provisions of the Act. Based upon the foregoing Findings of Fact, and consistent with the consent of the Respondent, the Division makes the following:

V. ORDER

18. It is hereby ORDERED that LPL will, contemporaneously with the execution of this Consent Order, pay a total penalty in the amount of Forty Thousand Dollars (\$40,000) to the State of Mississippi. The check shall be made payable to the "Mississippi Secretary of State."

19. This Order waives any disqualification in Mississippi laws, or rules or regulations hereunder, including any disqualifications from relying upon the registration exemptions or safe harbor provisions to which LPL or any of its affiliates may be subject. Nothing in this Order is intended to form the basis for any disqualification under the laws of any state, the District of Columbia, Puerto Rico, or the U.S. Virgin Islands; under the rules or regulations of any securities or commodities regulator or self-regulatory organizations; or under the federal securities laws, including, but not limited to, Section 3(a)(39) of the Securities Exchange Act of 1934 and Regulation A and Rules 504 and 506 of Regulation D under the Securities Act of 1933. Furthermore, nothing in this Order is intended to form the basis for disqualification under the FINRA rules prohibiting continuance in membership or disqualification under other SRO rules prohibiting continuance in membership. This Order is not intended to be a final order based upon violations of any Mississippi statute, rule, or regulation that prohibits fraudulent, manipulative, or deceptive conduct.


20. This Order should not be interpreted to waive any (i) criminal cause of action, (ii) private cause of action that may be accrued to investors as a result of the activities described above, or (iii) other causes of action that may result from activities of the Respondent not detailed herein or which may hereafter arise.

21. This Order concludes the open matter with the Division with respect to matter LS-17-2288. However, nothing herein limits the ability of the Division, individually or jointly with

other agencies, from pursuing any investigation with respect to any other securities-related matter involving the Respondent.

Dated this 12th day of December, 2018.

C. DELBERT HOSEMANN, JR.
Secretary of State
State of Mississippi

By: 

Jessica Leigh Long
Assistant Secretary of State
Securities Division

CONSENT TO ENTRY OF ADMINISTRATIVE ORDER BY LPL

LPL hereby acknowledges that it has been served with a copy of this Administrative Order, has read the foregoing Order, is aware of its right to a hearing and appeal in this matter, and has waived the same.

LPL admits the jurisdiction of the Division, neither admits nor denies the Findings of Fact and Conclusions of Law contained in this Order; and consents to entry of this Order by the Division as settlement of the issues contained in this Order.

LPL agrees that it shall not claim, assert, or apply for a tax deduction or tax credit with regard to any state, federal or local tax for any administrative monetary penalty that LPL shall pay pursuant to this Order. LPL understands and acknowledges that these provisions are not intended to imply that the Division would agree that any other amounts LPL shall pay pursuant to this Order may be reimbursed or indemnified (whether pursuant to an insurance policy or otherwise) under applicable law or may be the basis for any tax deduction or tax credit with regard to any state, federal or local tax.

LPL states that no promise of any kind or nature whatsoever was made to it to induce it to enter into this Order and that it has entered into this Order voluntarily.

Debra Manico represents that [he/she] is SVP, Counsel of LPL and that, as such, has been authorized by LPL to enter into this Order for and on behalf of LPL.

Dated this 30 day of November 2018.

LPL

By: Debra Manico
Title: SVP, Associate General Counsel

SUBSCRIBED AND SWORN TO before me this 30 day of November 2018.

Ronda F. Hope
Notary Public

My Commission expires:

10/26/2026